

104TH CONGRESS
1ST SESSION

H. R. 1818

To amend the Internal Revenue Code of 1986 to allow a deduction for contributions to a medical savings account by any individual who is covered under a catastrophic coverage health plan.

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 1995

Mr. ARCHER (for himself, Mr. JACOBS, Mr. THOMAS, Mr. DELAY, Mr. CRANE, Mr. SHAW, Mr. BUNNING of Kentucky, Mr. HOUGHTON, Mr. HERGER, Mr. MCCRERY, Mr. HANCOCK, Mr. CAMP, Mr. RAMSTAD, Mr. ZIMMER, Mr. NUSSLE, Mr. SAM JOHNSON of Texas, Ms. DUNN of Washington, Mr. COLLINS of Georgia, Mr. PORTMAN, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. CHRISTENSEN, Mr. SOLOMON, Mr. YOUNG of Alaska, Mr. MYERS of Indiana, Mr. DORNAN, Mr. SMITH of Texas, Mr. ROHRABACHER, Mr. FROST, Mr. HALL of Texas, Mr. BURTON of Indiana, Mr. LIPINSKI, Mr. TORRICELLI, Mrs. VUCANOVICH, Mr. SAXTON, Mr. CALLAHAN, Mr. GALLEGLY, Mr. PICKETT, Mr. UPTON, Mr. POSHARD, Mr. STEARNS, Mr. BARTLETT of Maryland, Mr. BREWSTER, Mr. CRAPO, Mr. HILLEARY, Mr. INGLIS of South Carolina, Mr. KNOLLENBERG, Mr. MANZULLO, Mr. ROYCE, Mr. TALENT, Mr. CHAMBLISS, Mr. CHRYSLER, Mr. GANSKE, Mr. JONES, Mr. LARGENT, Mr. THORNBERRY, Mr. WATTS of Oklahoma, Mr. WELLER, Mr. WHITE, Mr. WICKER, Mr. HOKE, and Mrs. JOHNSON of Connecticut) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a deduction for contributions to a medical savings account by any individual who is covered under a catastrophic coverage health plan.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Medical Sav-
5 ings and Investment Act of 1995”.

6 **SEC. 2. MEDICAL SAVINGS ACCOUNTS.**

7 (a) IN GENERAL.—Part VII of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 (relating to
9 additional itemized deductions for individuals) is amended
10 by redesignating section 220 as section 221 and by insert-
11 ing after section 219 the following new section:

12 **“SEC. 220. MEDICAL SAVINGS ACCOUNTS.**

13 “(a) DEDUCTION ALLOWED.—In the case of an indi-
14 vidual who is an eligible individual for any month during
15 the taxable year, there shall be allowed as a deduction for
16 the taxable year an amount equal to the aggregate amount
17 paid in cash during such taxable year by such individual
18 to a medical savings account of such individual.

19 “(b) LIMITATIONS.—

20 “(1) IN GENERAL.—Except as otherwise pro-
21 vided in this subsection, the amount allowable as a
22 deduction under subsection (a) to an individual for
23 the taxable year shall not exceed the lesser of—

24 “(A) \$2,500, or

1 “(B) the deductible under the catastrophic
2 health plan covering such individual.

3 If the catastrophic health plan covering such individ-
4 ual provides coverage for any other eligible individ-
5 ual who is the spouse or any dependent (as defined
6 in section 152) of the taxpayer, subparagraph (A)
7 shall be applied by substituting ‘\$5,000’ for
8 ‘\$2,500’.

9 “(2) PRORATION OF LIMITATION.—

10 “(A) IN GENERAL.—The limitation under
11 paragraph (1) shall be the sum of the monthly
12 limitations for months during the taxable year
13 that the individual is an eligible individual if—

14 “(i) such individual is not an eligible
15 individual for all months of the taxable
16 year,

17 “(ii) the deductible under the cata-
18 strophic health plan covering such individ-
19 ual is not the same throughout such tax-
20 able year, or

21 “(iii) such limitation is determined
22 using the last sentence of paragraph (1)
23 for some but not all months during such
24 taxable year.

1 “(B) MONTHLY LIMITATION.—The month-
2 ly limitation for any month shall be an amount
3 equal to $\frac{1}{12}$ of the limitation which would (but
4 for this paragraph and paragraph (3)) be deter-
5 mined under paragraph (1) if the facts and cir-
6 cumstances as of the first day of such month
7 that such individual is covered under a cata-
8 strophic health plan were true for the entire
9 taxable year.

10 “(3) COORDINATION WITH EXCLUSION FOR EM-
11 PLOYER CONTRIBUTIONS, INCLUDING TRANSFERS
12 FROM FLEXIBLE SPENDING ARRANGEMENTS.—No
13 deduction shall be allowed under this section for any
14 amount paid for any taxable year to a medical sav-
15 ings account of an individual if—

16 “(A) any amount is paid to any medical
17 savings account of such individual which is ex-
18 cludable from gross income under section
19 106(b) for such year, or

20 “(B) in a case described in paragraph
21 (4)(B), any amount is paid to any medical sav-
22 ings account of either spouse which is so ex-
23 cludable for such year.

24 “(4) SPECIAL RULE FOR MARRIED INDIVID-
25 UALS.—

1 “(A) IN GENERAL.—This subsection shall
2 be applied separately for each married individ-
3 ual and without regard to any community prop-
4 erty laws.

5 “(B) SPECIAL RULE.—If individuals who
6 are married to each other are covered under the
7 same catastrophic health plan, then the
8 amounts applicable under subparagraphs (A)
9 and (B) of paragraph (1) shall be divided equal-
10 ly between them unless they agree on a dif-
11 ferent division.

12 “(5) DENIAL OF DEDUCTION TO DEPEND-
13 ENTS.—No deduction shall be allowed under this
14 section to any individual with respect to whom a de-
15 duction under section 151 is allowable to another
16 taxpayer for a taxable year beginning in the cal-
17 endar year in which such individual’s taxable year
18 begins.

19 “(c) DEFINITIONS.—For purposes of this section—

20 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
21 individual’ means, with respect to any month, any
22 individual—

23 “(A) who is covered under a catastrophic
24 health plan at any time during such month, and

1 “(B) who is not, while covered under a cat-
2 astrophic health plan, covered under any health
3 plan—

4 “(i) which is not a catastrophic health
5 plan, and

6 “(ii) which provides coverage (other
7 than permitted coverage) for any services
8 which are covered under the catastrophic
9 health plan.

10 “(2) CATASTROPHIC HEALTH PLAN.—The term
11 ‘catastrophic health plan’ means any health plan
12 which provides no compensation for an individual’s
13 expenses covered by the plan (other than for per-
14 mitted coverage) for any calendar year to the extent
15 such expenses for such calendar year do not exceed
16 \$1,800 (\$3,600 if the catastrophic health plan cover-
17 ing the taxpayer provides coverage for more than 1
18 individual) or such higher amounts as may be speci-
19 fied by the plan.

20 “(3) PERMITTED COVERAGE.—The term ‘per-
21 mitted coverage’ means—

22 “(A) coverage only for accidents, dental
23 care, vision care, disability income, or long-term
24 care insurance,

1 “(B) Medicare supplemental health insur-
2 ance,

3 “(C) coverage issued as a supplement to li-
4 ability insurance,

5 “(D) liability insurance, including general
6 liability insurance and automobile liability in-
7 surance,

8 “(E) worker’s compensation or similar in-
9 surance,

10 “(F) automobile medical-payment insur-
11 ance,

12 “(G) coverage for a specified disease or ill-
13 ness, and

14 “(H) a hospital or fixed indemnity policy.

15 “(d) MEDICAL SAVINGS ACCOUNT.—For purposes of
16 this section—

17 “(1) MEDICAL SAVINGS ACCOUNT.—The term
18 ‘medical savings account’ means a trust created or
19 organized in the United States exclusively for the
20 purpose of paying the qualified medical expenses of
21 the account holder, but only if the written governing
22 instrument creating the trust meets the following re-
23 quirements:

1 “(A) Except in the case of a rollover con-
2 tribution described in subsection (f)(3), no con-
3 tribution will be accepted unless it is in cash.

4 “(B) The trustee is a bank (as defined in
5 section 408(n)), an insurance (as defined in
6 section 816), or another person who dem-
7 onstrates to the satisfaction of the Secretary
8 that the manner in which such person will ad-
9 minister the trust will be consistent with the re-
10 quirements of this section.

11 “(C) No part of the trust assets will be in-
12 vested in life insurance contracts.

13 “(D) The assets of the trust will not be
14 commingled with other property except in a
15 common trust fund or common investment
16 fund.

17 “(E) The interest of an individual in the
18 balance in his account is nonforfeitable.

19 “(2) QUALIFIED MEDICAL EXPENSES.—

20 “(A) IN GENERAL.—The term ‘qualified
21 medical expenses’ means, with respect to an ac-
22 count holder, amounts paid by such holder—

23 “(i) for medical care (as defined in
24 section 213(d)) for such individual, the
25 spouse of such individual, and any depend-

ent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise, or

“(ii) for long-term care insurance for such individual, spouse, or dependent.

“(B) HEALTH PLAN COVERAGE MAY NOT BE PURCHASED FROM ACCOUNT.—

“(i) IN GENERAL.—Such term shall not include any amount paid for coverage under a health plan unless such plan is a catastrophic health plan.

“(ii) EXCEPTION.—Clause (i) shall not apply to any amount paid for long-term care insurance.

“(3) ACCOUNT HOLDER.—The term ‘account holder’ means the individual on whose behalf the medical savings account was established.

“(4) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

“(A) Section 219(d)(2) (relating to no deduction for rollovers).

“(B) Section 219(f)(3) (relating to time when contributions deemed made).

1 “(C) Except as provided in section 106(b),
2 section 219(f)(5) (relating to employer pay-
3 ments).

4 “(D) Section 408(h) (relating to custodial
5 accounts).

6 “(e) TAX TREATMENT OF ACCOUNTS.—

7 “(1) ACCOUNT TAXED AS GRANTOR TRUST.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), the account holder of a med-
10 ical savings account shall be treated for pur-
11 poses of this title as the owner of such account
12 and shall be subject to tax thereon in accord-
13 ance with subpart E of part I of subchapter J
14 of this chapter (relating to grantors and others
15 treated as substantial owners).

16 “(B) TREATMENT OF CAPITAL LOSSES.—

17 With respect to assets held in a medical savings
18 account, any capital loss for a taxable year
19 from the sale or exchange of such an asset shall
20 be allowed only to the extent of capital gains
21 from such assets for such taxable year. Any
22 capital loss which is disallowed under the pre-
23 ceding sentence shall be treated as a capital
24 loss from the sale or exchange of such an asset
25 in the next taxable year. For purposes of this

1 subparagraph, all medical savings accounts of
2 the account holder shall be treated as 1 ac-
3 count.

4 “(2) ACCOUNT ASSETS TREATED AS DISTRIB-
5 UTED IN THE CASE OF PROHIBITED TRANSACTIONS
6 OR ACCOUNT PLEDGED AS SECURITY FOR LOAN.—
7 Rules similar to the rules of paragraphs (2) and (4)
8 of section 408(e) shall apply to medical savings ac-
9 counts, and any amount treated as distributed under
10 such rules shall be treated as not used to pay quali-
11 fied medical expenses.

12 “(f) TAX TREATMENT OF DISTRIBUTIONS.—

13 “(1) INCLUSION OF AMOUNTS NOT USED FOR
14 QUALIFIED MEDICAL EXPENSES.—

15 “(A) IN GENERAL.—Any amount paid or
16 distributed out of a medical savings account
17 which is not used exclusively to pay the quali-
18 fied medical expenses of the account holder
19 shall be included in the gross income of such
20 holder to the extent such amount does not ex-
21 ceed the excess of—

22 “(i) the aggregate contributions to
23 such account which were allowed as a de-
24 duction under this section or which were
25 excluded under section 106(b), over

1 “(ii) the aggregate prior payments or
2 distributions from such account which were
3 includible in gross income under this para-
4 graph.

5 “(B) SPECIAL RULES.—For purposes of
6 subparagraph (A)—

7 “(i) all medical savings accounts of
8 the account holder shall be treated as 1 ac-
9 count,

10 “(ii) all payments and distributions
11 during any taxable year shall be treated as
12 1 distribution, and

13 “(iii) any distribution of property
14 shall be taken into account at its fair mar-
15 ket value on the date of the distribution.

16 “(2) PENALTY FOR DISTRIBUTIONS NOT USED
17 FOR QUALIFIED MEDICAL EXPENSES.—

18 “(A) IN GENERAL.—The tax imposed by
19 this chapter for any taxable year in which there
20 is a payment or distribution from a medical
21 savings account which is not used exclusively to
22 pay the qualified medical expenses of the ac-
23 count holder shall be increased by 10 percent of
24 the amount of such payment or distribution

1 which is includible in gross income under para-
2 graph (1).

3 “(B) DISABILITY OR DEATH CASES.—Sub-
4 paragraph (A) shall not apply if the payment or
5 distribution is made after the account holder
6 becomes disabled within the meaning of section
7 72(m)(7) or dies.

8 “(3) ROLLOVERS.—Paragraph (1) shall not
9 apply to any amount paid or distributed out of a
10 medical savings account to the account holder if the
11 entire amount received (including money and any
12 other property) is paid into another medical savings
13 account for the benefit of such holder not later than
14 the 60th day after the day on which he received the
15 payment or distribution.

16 “(4) COORDINATION WITH MEDICAL EXPENSE
17 DEDUCTION.—For purposes of section 213, any pay-
18 ment or distribution out of a medical savings ac-
19 count for qualified medical expenses shall not be
20 treated as an expense paid for medical care to the
21 extent of the amount of such payment or distribu-
22 tion which is excludable from gross income solely by
23 reason of paragraph (1)(A).

24 “(g) COST-OF-LIVING ADJUSTMENT.—

1 “(1) IN GENERAL.—In the case of any taxable
2 year beginning in a calendar year after 1996, each
3 dollar amount in subsection (b)(1) or in subsection
4 (c)(2) shall be increased by an amount equal to—

5 “(A) such dollar amount, multiplied by

6 “(B) the medical care cost adjustment for
7 such calendar year.

8 If any increase under the preceding sentence is not
9 a multiple of \$50, such increase shall be rounded to
10 the nearest multiple of \$50.

11 “(2) MEDICAL CARE COST ADJUSTMENT.—For
12 purposes of paragraph (1), the medical care cost ad-
13 justment for any calendar year is the percentage (if
14 any) by which—

15 “(A) the medical care component of the
16 Consumer Price Index (as defined in section
17 1(f)(5)) for August of the preceding calendar
18 year, exceeds

19 “(B) such component for August of 1995.

20 “(h) REPORTS.—The trustee of a medical savings ac-
21 count shall make such reports regarding such account to
22 the Secretary and to the account holder with respect to
23 contributions, distributions, and such other matters as the
24 Secretary may require under regulations. The reports re-
25 quired by this subsection shall be filed at such time and

1 in such manner and furnished to such individuals at such
2 time and in such manner as may be required by those reg-
3 ulations.”

4 (b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL
5 ITEMIZES OTHER DEDUCTIONS.—Subsection (a)
6 of section 62 of such Code is amended by inserting after
7 paragraph (15) the following new paragraph:

8 “(16) MEDICAL SAVINGS ACCOUNTS.—The de-
9 duction allowed by section 220.”

10 (c) EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO
11 MEDICAL SAVINGS ACCOUNTS.—

12 (1) EXCLUSION FROM INCOME TAX.—The text
13 of section 106 of such Code (relating to contribu-
14 tions by employer to accident and health plans) is
15 amended to read as follows:

16 “(a) GENERAL RULE.—Gross income of an employee
17 does not include employer-provided coverage under an ac-
18 cident or health plan.

19 “(b) CONTRIBUTIONS TO MEDICAL SAVINGS AC-
20 COUNTS.—

21 “(1) IN GENERAL.—In the case of an employee
22 who is an eligible individual, gross income does not
23 include amounts contributed by such employee’s em-
24 ployer to any medical savings account of such em-
25 ployee. For purposes of the preceding sentence, the

1 terms ‘eligible individual’ and ‘medical savings ac-
2 count’ have the respective meanings given to such
3 terms by section 220.

4 “(2) NO CONSTRUCTIVE RECEIPT.—No amount
5 shall be included in the gross income of any em-
6 ployee solely because the employee may choose be-
7 tween the contributions referred to in paragraph (1)
8 and employer contributions to another health plan of
9 the employer.

10 “(3) TRANSFERS FROM FLEXIBLE SPENDING
11 ARRANGEMENTS.—

12 “(A) IN GENERAL.—A flexible spending ar-
13 rangement for health shall not cease to be
14 treated as such an arrangement, and no
15 amount shall be includible in the gross income
16 of the employee, solely because amounts not
17 paid out as reimbursements under such ar-
18 rangement are contributed to a medical savings
19 account of such employee.

20 “(B) FLEXIBLE SPENDING ARRANGE-
21 MENT.—For purposes of this paragraph, a
22 flexible spending arrangement is a benefit pro-
23 gram which provides employees with coverage
24 under which—

1 “(i) specified incurred expenses may
2 be reimbursed (subject to reimbursement
3 maximums and other reasonable condi-
4 tions), and

5 “(ii) the maximum amount of reim-
6 bursement which is reasonably available to
7 a participant for such coverage is less than
8 500 percent of the cost of such coverage.

9 In the case of an insured plan, the maximum
10 amount reasonably available shall be deter-
11 mined on the basis of the underlying coverage.

12 “(4) COORDINATION WITH DEDUCTION LIMITA-
13 TION.—The amount excluded from the gross income
14 of an employee under this subsection for any taxable
15 year shall not exceed the limitation under section
16 220(b)(1) (determined without regard to this sub-
17 section) which is applicable to such employee for
18 such taxable year.”

19 (2) EXCLUSION FROM EMPLOYMENT TAXES.—

20 (A) SOCIAL SECURITY TAXES.—

21 (i) Subsection (a) of section 3121 of
22 such Code is amended by striking “or” at
23 the end of paragraph (20), by striking the
24 period at the end of paragraph (21) and
25 inserting “; or”, and by inserting after

1 paragraph (21) the following new para-
2 graph:

3 “(22) any payment made to or for the benefit
4 of an employee if at the time of such payment it is
5 reasonable to believe that the employee will be able
6 to exclude such payment from income under section
7 106(b).”

8 (ii) Subsection (a) of section 209 of
9 the Social Security Act is amended by
10 striking “or” at the end of paragraph (17),
11 by striking the period at the end of para-
12 graph (18) and inserting “; or”, and by in-
13 serting after paragraph (18) the following
14 new paragraph:

15 “(19) any payment made to or for the benefit
16 of an employee if at the time of such payment it is
17 reasonable to believe that the employee will be able
18 to exclude such payment from income under section
19 106(b) of the Internal Revenue Code of 1986.”

20 (B) RAILROAD RETIREMENT TAX.—Sub-
21 section (e) of section 3231 of such Code is
22 amended by adding at the end the following
23 new paragraph:

24 “(10) MEDICAL SAVINGS ACCOUNT CONTRIBU-
25 TIONS.—The term ‘compensation’ shall not include

1 any payment made to or for the benefit of an em-
2 ployee if at the time of such payment it is reason-
3 able to believe that the employee will be able to ex-
4 clude such payment from income under section
5 106(b).”

6 (C) UNEMPLOYMENT TAX.—Subsection (b)
7 of section 3306 of such Code is amended by
8 striking “or” at the end of paragraph (15), by
9 striking the period at the end of paragraph (16)
10 and inserting “; or”, and by inserting after
11 paragraph (16) the following new paragraph:

12 “(17) any payment made to or for the benefit
13 of an employee if at the time of such payment it is
14 reasonable to believe that the employee will be able
15 to exclude such payment from income under section
16 106(b).”

17 (D) WITHHOLDING TAX.—Subsection (a)
18 of section 3401 of such Code is amended by
19 striking “or” at the end of paragraph (19), by
20 striking the period at the end of paragraph (20)
21 and inserting “; or”, and by inserting after
22 paragraph (20) the following new paragraph:

23 “(21) any payment made to or for the benefit
24 of an employee if at the time of such payment it is
25 reasonable to believe that the employee will be able

1 to exclude such payment from income under section
2 106(b).”

3 (d) TAX ON PROHIBITED TRANSACTIONS.—Section
4 4975 of such Code (relating to tax on prohibited trans-
5 actions) is amended—

6 (1) by adding at the end of subsection (c) the
7 following new paragraph:

8 “(4) SPECIAL RULE FOR MEDICAL SAVINGS AC-
9 COUNTS.—An individual for whose benefit a medical
10 savings account (within the meaning of section
11 220(d)) is established shall be exempt from the tax
12 imposed by this section with respect to any trans-
13 action concerning such account (which would other-
14 wise be taxable under this section) if, with respect
15 to such transaction, the account ceases to be a medi-
16 cal savings account by reason of the application of
17 section 220(e)(2) to such account.”, and

18 (2) by inserting “or a medical savings account
19 described in section 220(d)” in subsection (e)(1)
20 after “described in section 408(a)”.

21 (e) FAILURE TO PROVIDE REPORTS ON MEDICAL
22 SAVINGS ACCOUNTS.—Section 6693 of such Code (relat-
23 ing to failure to provide reports on individual retirement
24 accounts or annuities) is amended—

1 (1) by inserting “**OR ON MEDICAL SAVINGS**
 2 **ACCOUNTS**” after “**ANNUITIES**” in the heading of
 3 such section, and

4 (2) by adding at the end of subsection (a) the
 5 following: “The person required by section 220(h) to
 6 file a report regarding a medical savings account at
 7 the time and in the manner required by such section
 8 shall pay a penalty of \$50 for each failure to so file
 9 unless it is shown that such failure is due to reason-
 10 able cause.”

11 (f) CLERICAL AMENDMENTS.—

12 (1) The table of sections for part VII of sub-
 13 chapter B of chapter 1 of such Code is amended by
 14 striking the last item and inserting the following:

 “Sec. 220. Medical savings accounts.
 “Sec. 221. Cross reference.”

15 (2) The table of sections for subchapter B of
 16 chapter 68 of such Code is amended by inserting “or
 17 on medical savings accounts” after “annuities” in
 18 the item relating to section 6693.

19 (g) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to taxable years beginning after
 21 December 31, 1995.

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